

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

DECISION AND ORDER

00-CR-6083L

06-CV-6046L

v.

JUMA SAMPSON,

Defendant.

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The defendant, Juma Sampson (“Sampson”), was convicted after trial and was sentenced principally to a term of 25 years imprisonment. Although the United States Court of Appeals for the Second Circuit vacated part of the Judgment and Conviction, that decision did not affect the aggregate sentence.

Sampson has now filed, *pro se*, a motion to vacate the conviction pursuant to 28 U.S.C. § 2255 on the grounds that his trial counsel was ineffective. Sampson claims that although he was aware of the 15-year plea bargain presented by the Government, his attorney failed to give him advice as to how to “deal with” the proposed plea bargain. Sampson also claims that his trial counsel failed to advise him that the Government’s filing of the notice pursuant to 21 U.S.C. § 851 increased his mandatory minimum from 10 years to 20 years. Sampson now claims that he would have taken the 15-year plea agreement had he known of this mandatory minimum.

The Court is familiar with the trial and the proceedings surrounding it, but the record here needs some amplification. I, therefore, direct the Government to contact Sampson's trial counsel, Peter J. Pullano, and provide the Court with an affidavit from this attorney as to all the relevant circumstances, discussions and advice relating to plea negotiations, the defendant's awareness of the potential penalties if convicted, and other matters relating to this petition.

I rule that because Sampson has filed the instant petition and has challenged his attorney's conduct and effectiveness, the attorney is no longer bound to protect any so-called attorney-client communications, insofar as they are relevant to the claims made in the defendant's petition. I direct the Government to see that this affidavit is provided to the Court, with a copy to Sampson, within 20 days of entry of this decision and order.

IT IS SO ORDERED.

  
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DAVID G. LARIMER  
United States District Judge

Dated: Rochester, New York  
October 17, 2008.